

REMARKS

Claims 1-13 are pending in the application. Claim 1 is the only independent claim.

Claims Rejections - 35 U.S.C. § 103

Claims 1, 2, 4-6, and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,389,103 to Melzer et al. in view of U.S. Patent No. 2,581,564 to Villegas.

Claim 3 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,389,103 to Melzer et al. in view of U.S. Patent No. 2,581,564 to Villegas and further in view of U.S. Patent No. 5,908,428 to Scirica et al.

Claims 7-11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,389,103 to Melzer et al. in view of U.S. Patent No. 2,581,564 to Villegas and further in view of U.S. Patent No. 3,918,455 to Coplan.

Claim 12 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,389,103 to Melzer et al. in view of U.S. Patent No. 2,581,564 to Villegas and further in view of U.S. Patent Application Publication No. 2004/0260145 by Borst et al.

Applicant has amended claim 1 herein to provide a better definition of the invention. Applicant respectfully maintains that claim 1 distinguishes the invention over the prior art and particularly over the art relied on by the Examiner in rejecting the claims of the instant application.

Claim 1 As recited in amended claim 1, an atraumatic surgical needle has two tissue-penetrating needle tips and comprises a tubular metal shaft that is hollow from tip

to tip and that has a cylindrical external surface from tip to tip. At least one of the tips is open. The shaft has a central portion that is equipped with a hole through which emerges a surgical thread that is anchored inside the needle.

Melzer et al. disclose a two-tipped needle (4) that is used as an integral part of a stitching machine. In contrast, applicant's needle intended for manual use only.

The Melzer needle is not an atraumatic needle. It incorporates a pair of flared or bulging tips (5). In contrast, per presently amended claim 1, applicant's needle has a cylindrical external surface from tip to tip. Applicant's needle has a configuration that minimizes trauma.

The present amendment to claim 1 clarifies the distinction of applicant's invention over the Melzer reference because the needle (4) of that reference necessarily has bulging conical tips (5) at the opposite ends. Without the non-cylindrical bulging tips, the needle could not function with the stitching apparatus disclosed in the Melzer patent. The tip-to-tip cylindrical external surface of the Villegas needle (Figures 1 and 2) could not be incorporated into the Melzer needle without destroying the purpose and use of the Melzer needle.

Villegas discloses a needle with a single tissue-penetrating needle tip. Villegas does not disclose or suggest an atraumatic surgical needle has two tissue-penetrating needle tips.

Villegas discloses a needle where a thread extends from a hole at one end of the needle, not from a hole in a central portion of a needle shaft. Villegas does not teach or imply an atraumatic surgical needle with a surgical thread extending from a hole in a central portion of the needle.

Applicant notes that the Melzer reference would not lead one of ordinary skill in the art to provide the Villegas needle with two tissue-penetrating needle tips. The two needle tips of Melzer have a necessarily bulging or flared configuration that, if incorporated into the Villegas needle, would undesirably convert the Villegas needle into a traumatic needle. Moreover, one of ordinary skill in the art would recognize that the two needle tips and the remaining structure (e.g., the central suture hole 36) of the Melzer needle are designed for using the needle in the stitching machine of that reference and therefore not suitable for a manually used needle.

The combination of Melzer et al. or Villegas with any other reference relied on by the Examiner does not result in the present invention as set forth in amended claim 1, for reasons presented above with respect to the Melzer reference and in prior filed papers.

As previously remarked, one of ordinary skill in the art would not be induced to modify the needle of Villegas to have two tissue-penetrating needle tips. The entire purpose and object of the Villegas invention is the key-hole-shaped slot (16, 18) at the blunt end of the needle. For the Villegas invention to make sense, the suture thread (14) must emerge from one end of the needle, along the needle axis. However, having the thread (14) emerge at a sharp tip would interfere with the usefulness of that second tissue-penetrating needle tip.

Also, as observed previously, the purpose and object of the Villegas invention would also prevent one of ordinary skill in the art from modifying the Villegas needle to have the thread emerge from the needle through a hole in a central portion of the needle, as set forth in applicant's claim 1. Thus, the fact that Scirica et al. teach the emergence of

a thread laterally from the Scirica needle would not enable one of ordinary skill in the art to arrive at applicant's thread configuration as set forth in claim 1.

Coplan also discloses a needle having a single needle tip, with a thread emerging from the opposite or trailing end of the needle along the longitudinal axis thereof, as in the needle of Villegas.

Conclusion

For the foregoing reasons, independent claim 1, as well as the claims dependent therefrom, is deemed to be in condition for allowance. An early Notice to that effect is earnestly solicited.

A Request for Continued Examination and a check in the amount of Four-Hundred-and-Five Dollars (\$405) are submitted herewith.

Should the Examiner believe that direct contact with applicant's attorney would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the number below.

Respectfully submitted,

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